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7
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF SACRAMENTO
10

11 FULLERTON ASSOCIATION OF CONCERNED
TAXPAYERS, an unincorporated association,

12 Plaintiff,

13 v.
14

15 CALIFORNIA FISCAL RECOVERY FINANCING
AUTHORITY; FINANCE DIRECTOR AND
FINANCING AUTHORITY CHAIRPERSON STEVE
16 PEACE, in His Official Capacity; STATE
TREASURER PHIL ANGÉLIDES, in His Official
17 Capacity; AND ALL PERSONS INTERESTED IN
THE MATTER OF THE VALIDITY OF ASSEMBLY
18 BILL 7 (1ST EXTRAORDINARY SESSION 2003)
(AB 7), ENACTING THE CALIFORNIA FISCAL
19 RECOVERY FINANCING ACT, GOVERNMENT
CODE SECTION 99000, *ET SEQ.*; ADDING
20 SECTIONS 6051.5, 6051.6, 6201.5, 6201.6, AND
7101.3, 7203.1 TO THE REVENUE AND
21 TAXATION CODE, AND AMENDING SECTIONS
7202; 7203 OF THE REVENUE AND TAXATION
22 CODE; AND DEFICIT BONDS TO BE ISSUED
PURSUANT THERETO.
23

24 Defendants.

No. 03AS05319

VERIFIED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF AND
DETERMINATION OF
INVALIDITY
(CCP SECTIONS 526, 526a,
860, 863, 1060)

25 Plaintiff Fullerton Association of Concerned Taxpayers (Plaintiff), an unincorporated
26 Association whose members are citizens, taxpayers, and residents of the State of California, brings
27 this action for declaratory and injunctive relief, a determination of invalidity and such other and
28 further relief as specified herein, and for its complaint alleges as follows:

Verified Complnt Dec Inj Relief &
Det of Invalid

INTRODUCTORY ALLEGATIONS

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2 1. This action is brought in response to the massive indebtedness the State of California
3 proposes to incur through the "California Fiscal Recovery Financing Act" (the Act), Government
4 Code section 99000, *et seq.*, as enacted by Assembly Bill 7 (1st Extraordinary Session 2003) (AB
5 7). Plaintiff challenges the Act's constitutionality on its face because it purports to authorize the
6 newly-created California Fiscal Recovery Financing Authority (the Authority) to borrow billions
7 of dollars without first obtaining the approval of the people through a popular vote, and for
8 purposes beyond those authorized by the debt limitation clause of the state constitution. A true and
9 correct copy of AB 7 is attached as Exhibit 1 and incorporated herein by reference.

10 2. Article XVI, section 1, of the California Constitution forbids the Legislature from
11 incurring debt in excess of \$300,000 without a vote of the people, except in the case of war,
12 invasion, or insurrection. This provision safeguards the people against impulsive and reckless
13 government indebtedness, empowering the voters by giving them a direct voice, superior to the
14 Legislature's, in managing the state's fiscal affairs relating to the incurrence of debt. Article XVI,
15 section 1, also forbids the Legislature from funding day-to-day government operations through
16 long-term deficit financing and casting the burden of today's—and yesterday's—government bills
17 onto the backs of our children, as future taxpayers. Specifically, Article XVI, section 1, requires
18 that debt of more than \$300,000 can be entered into only to fund a "single object or work," *not* to
19 fund the general operations of state government.

20 3. The Act is a direct affront to both of these principles embodied in Article XVI,
21 section 1, of our Constitution. It authorizes the newly-created Authority to plunge the state and its
22 citizens into a monumental bonded indebtedness without an affirmative vote of the people.
23 Plaintiff is informed and believes and therefore alleges that at least \$11 billion in Fiscal Recovery
24 Bonds (Deficit Bonds) or other debt instruments—a sum far beyond the \$300,000 trigger requiring
25 a popular vote under Article XVI—will be issued by the Authority pursuant to the Act's
26 authorization. *See* Exhibit 2, a true and correct copy of an Official, August 22, 2003, News Release
27 of the California State Treasurer (describing the amount and kinds of bonds and notes that the state
28 plans to issue to reduce the budget deficit), which is incorporated herein by reference. The

1 proceeds from the sale of the bonds will not be used for any "single object or work," such as
2 specific capital improvements or the purchase of property. To the contrary, they will be used to
3 pay the cost of the general operations of government, because they are required by the Act to be
4 employed to reduce an existing deficit representing unpaid bills incurred through the ordinary day-
5 to-day operations of the state government. By this action, Plaintiff seeks to reaffirm the
6 constitutional limitations on such burdensome and dangerous debt financing schemes, and asks this
7 Court to find the Act illegal on its face. Plaintiff also seeks a judicial determination that the
8 approximately \$11 billion in Fiscal Recovery Bonds ("Deficit Bonds" or however else they might
9 be titled) purportedly to be issued under the authority of the Act, possibly in February, 2004, and/or
10 April/May, 2004, as announced by the California State Treasurer in his Official, August 22, 2003,
11 News Release (see Exhibit 2), are invalid and void.

12 PARTIES

13 4. Fullerton Association of Concerned Taxpayers (FACT) is an unincorporated
14 association located in Fullerton, California, dedicated to promoting a responsible and fiscally
15 conservative approach to government taxing and spending. FACT members are residents, citizens,
16 and homeowners of the State of California. FACT includes members who, within the last year,
17 have paid both state income taxes and property taxes, in California, and at least one member who
18 has collected and remitted California sales taxes within the past year. FACT is an interested person
19 and its members are interested persons for purposes of Code of Civ. Proc. section 863. Plaintiff
20 is authorized by its members to bring litigation affecting the interests of taxpayers in California.

21 5. Defendant California Fiscal Recovery Financing Authority (the Authority) is a public
22 instrumentality of the state established by the Legislature pursuant to the Act "solely for the
23 purpose of the issuance and sale of bonds and ancillary obligations" to discharge the accumulated
24 budget deficit. Gov't Code §§ 99004; 99005(b), as added by the Act. The Authority is an empty
25 shell, functioning solely to circumvent the constitutional debt limitation and insulate the state from
26 being labeled a debtor. It may sue and be sued. Gov't Code § 99005(a).

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6. Defendant STEVE PEACE is sued in his official capacity as Director of Finance and ex officio chairperson of the Authority. Gov't Code § 99004(d). He is authorized to request the issuance of bonds by the Authority. Gov't Code § 99011(a)-(c).

7. Defendant PHIL ANGELIDES is sued in his official capacity as State Treasurer and ex officio member of the Authority, Gov't Code § 99004(b)(1)(C). As State Treasurer Defendant Angelides may serve as trustee for any issue of bonds pursuant to the Act, Gov't Code § 99003(j), and shall serve as agent for the offer and sale of the bonds. Gov't Code § 99012(b). Defendants Authority, Peace, and Angelides are sometimes hereafter referred to as "Government Defendants."

8. Additional Defendants are all persons interested in the matter of the validity of AB 7, enacting Government Code section 99000, *et seq.*; adding sections 6051.5, 6051.6, 6201.5, 6201.6, and 7101.3, 7203.1 to the Revenue and Taxation Code; and amending sections 7202, 7203, of the Revenue and Taxation Code; and deficit bonds to be issued pursuant thereto.

9. Jurisdiction and venue lie in the Superior Court for the County of Sacramento pursuant to Government Code section 99020, providing that any validation proceeding shall be brought in this Court; in addition, some or all of the Defendants reside in the County of Sacramento. By law, this action is entitled to a statutory calendar preference over all other civil matters before this Court pursuant to section 99020(b) of the Act.

10. The Act was signed into law by the Governor on August 2, 2003. Plaintiff brings this in rem proceeding within 60 days of the effective date of the Act, as required by Code of Civil Procedure, sections 860 and 863.

11. Article XVI, section 1, of the California Constitution provides, in relevant part:

The Legislature shall not, in any manner create any debt or debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed the sum of three hundred thousand dollars (\$300,000) . . . *unless* the same shall be authorized by law for some single object or work to be distinctly specified therein which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability . . . ; but no such law shall take effect unless it has been passed by a two-thirds vote of all the members elected to each house of the Legislature and until, at a general election or at a direct primary,

1 it shall have been submitted to the people and shall have received a majority of all
2 the votes cast for and against it at such election

3 12. This provision bars the state from incurring debt of more than \$300,000 unless a) the
4 borrowing is approved by the electorate; and b) the borrowing is used for a "single object or work
5 . . . distinctly specified," as opposed to the general operations of government. (Cal. Const. art.
6 XVI, § 1.)

7 13. This provision was intended by its framers as a bulwark against reckless government
8 spending and borrowing. It reserves to the people the right to decide whether a particular level of
9 debt is required to satisfy an important public purpose. And, by restricting the purposes for which
10 borrowing is permitted, it prevents the Legislature from yielding to the temptation to use deficit
11 financing to fund the ordinary operations of government—a dangerous recourse that has become
12 habitual at the federal level but to which California had not previously succumbed.

13 STATUTORY BACKGROUND

14 THE CALIFORNIA FISCAL RECOVERY FINANCING ACT 15 AND THE MASSIVE DEFICIT FINANCING IT WILL TRIGGER

16 14. The State of California's budget for Fiscal Year 2003-04, signed into law by the
17 Governor on August 2, 2003, assumes the state will enter into long-term borrowing of billions of
18 dollars to finance its accumulated financial deficit. The Act establishes the mechanism for this
19 long-term indebtedness by creating the Authority as a public instrumentality empowered to issue
20 deficit-finance bonds. Gov't Code § 99004(a). Plaintiff is informed and believes and thereon
21 alleges that the Authority is contemplating issuing at least \$11 billion in bonds pursuant to the bond
22 authorization provisions of the Act. See Exhibit 2. Plaintiff is also informed and believes and
23 thereon alleges that repayment of the bonds is contemplated to take place over a period of at least
24 five years, beginning in Fiscal Year 2004-2005. *Id.* Nevertheless, the Act makes no provision for
25 submitting the proposed issuance of these bonds to a vote of the people for approval, as required
26 by Article XVI, section 1, of the California Constitution.

27 15. In an official public statement issued on August 22, 2003, Defendant Angelides
28 announced that the state expected to issue \$11 billion in "Fiscal Recovery Bonds" authorized by

1 the Act, beginning as early as February, 2004, with an anticipated maturity date of 5 to 7 years. *See*
2 Exhibit 2.

3 16. In an attempt to escape the express debt limitation of Article XVI, section 1, the Act
4 includes the self-serving and logic-defying assertion that bonds issued by the Authority will *not be*
5 *debts or liabilities of the State*. Gov't Code § 99011(b). This audacious claim is rationalized in
6 part by the fact that money to retire the bonds will not come directly from the state's General Fund,
7 but from a newly created "special" account, within the State Treasury, designated the Fiscal
8 Recovery Fund. Gov't Code § 99008(a), (b) & (c). This legal fiction aside, the money flowing into
9 and out of the newly established "special fund" has its ultimate source in the state's *General Fund*.
10 It wends its way to the Fiscal Recovery Fund through a three-step money-laundering scheme
11 enacted by the Legislature and spelled out in the Act:

12 (a) Step One: The state will pay the principal and interest due bondholders with a
13 portion of existing sales and use tax revenues that were formerly received by cities and counties.
14 This is accomplished through repeal of one-half cent ($\frac{1}{2}$ cent) of the so-called "Bradley-Burns
15 Uniform Local Sales and Use Tax Law" sales tax that went to cities and counties. *See* AB 7, sec.
16 10, adding section 7202.1 to the Revenue and Taxation Code. Simultaneously, a new half-cent
17 sales tax is established by the Act, the revenues from which will be paid into the Fiscal Recovery
18 Fund to be used exclusively to pay the principal and interest due on the bonds. *See* AB 7, secs. 3,
19 5, and 7 adding sections 6051.5, 6201.5 and 7101.3 to the Revenue and Taxation Code.

20 (b) Step Two: To reimburse the cities and counties for their loss of "Bradley Burns"
21 tax revenues, the Act redirects to these entities moneys from the Educational Revenue
22 Augmentation Funds—revenues that had previously funded schools. *See* Exhibit 3, a true and
23 correct copy of AB 1766 adding section 97.68 to the Revenue and Taxation Code, which is
24 incorporated herein by reference.

25 (c) Step Three: The state will reimburse schools with appropriations from the General
26 Fund. Education Code, §§ 14002-14002.3; 42238, subd. (h). Through a circuitous route that John
27 Madden would have difficulty diagraming, money travels from the General Fund to the schools,
28 and the schools pass off an equivalent amount to cities and counties, and the cities and counties

1 release an equivalent amount to the Fiscal Recovery Fund, from whence the bondholders are paid
2 the principal and interest due them. Following the money trail demonstrates that repayment of the
3 bonds is ultimately derived from the state's General Fund.

4 17. Another rationale for the claim the bonds are not a "debt" within the meaning of the
5 constitutional debt limitation clause is that the Act does not explicitly authorize a long-term
6 obligation. Instead of a continuous appropriation for repayment when the bonds are issued, they
7 are to be structured so that each year the Legislature must vote to release the funds required to pay
8 the bondholders the sums due and owing. Gov't Code § 99008(c).

9 18. This is an imaginative legal fiction, an attempt to circumvent the constitutional debt
10 limitation clause by denying the reality of the long-term debt. The annualization of the bond
11 repayment process is purely a matter of form, not of substance. Common sense and economic
12 realities prevent the Legislature from reneging on the payments due bondholders without
13 catastrophic fiscal consequences for the state and its credit. The annual appropriations of the
14 Legislature will, therefore, amount to a kind of kabuki theater—a ritual play with a preordained
15 outcome. The entire exercise is designed to obscure the fact that the state is committing itself, from
16 the date the bonds are marketed, to long-term borrowing and full retirement of that debt.

17 19. If this gimmickry is allowed to stand, the constitution's debt limitation clause will be
18 rendered a nullity, without content or meaning.

19 SERVICE OF PROCESS

20 20. The Sacramento Bee is a newspaper of general circulation published in the City of
21 Sacramento, California, and the County of Sacramento, California, and such newspaper is
22 published in the county in which this action is pending, the Capitol of the state is located, the
23 Government Defendants reside, and where the Defendant Authority conducts or will undertake its
24 statutory duties under the Act. Publication of notice of the pendency of this action in the
25 Sacramento Bee, and in such other newspapers, if any, as the Court may order, is the method most
26 likely to give notice to persons interested in these proceedings. Plaintiff will seek an order *ex parte*
27 ordering publication of the summons pursuant to Code of Civil Procedure, section 861.

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1 21. In addition, Plaintiff will seek an order *ex parte* that notice be given by mailing a copy
2 of the summons and complaint to those persons, if any, or their attorneys, who, not later than the
3 date on which publication of the summons is complete, or such other time as the Court may direct,
4 have notified Plaintiff's attorneys of record in writing of their interest in this matter. Such service
5 by mail is the only reasonably practicable means of additional notice of the pendency of this
6 proceeding to persons interested in the subject matter of this action.

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8 **FIRST CAUSE OF ACTION FOR**
9 **DECLARATORY RELIEF AGAINST ALL DEFENDANTS**
10 **(VIOLATION OF THE REQUIREMENT**
11 **OF A POPULAR VOTE (Cal. Const. art. XVI § 1))**

12 22. Plaintiff realleges and by this reference incorporates Paragraphs 1 through 21, as if
13 fully set forth.

14 23. The provisions of the Act, Government Code, sections 99000, *et seq.*, authorizing the
15 Authority to issue bonds or other debt instruments to reduce and eliminate the accumulated
16 financial deficit of the State of California, are unconstitutional, illegal, and improper because they
17 violate Article XVI, section 1, of the California Constitution, which declares that the Legislature
18 "shall not, in any manner create any debt or debts, liability or liabilities" greater than \$300,000,
19 unless such borrowing is approved by a vote of the people.

20 24. The Act authorizes the Authority to incur bonded indebtedness or comparable
21 obligations, which indebtedness or obligations are a "debt or debts, liability or liabilities" within
22 the meaning of Article XVI, section 1, of the California Constitution.

23 25. Upon information and belief, Plaintiff alleges the Authority will issue bonds or other
24 debt instruments pursuant to the authorization of the Act in an amount egregiously exceeding the
25 debt limitation of \$300,000 imposed by Article XVI, section 1. *See* Exhibit 2.

26 26. The Act makes no provision that any debts or liabilities incurred or to be incurred in
27 excess of \$300,000 by the Authority first be submitted to a vote of the people for their approval or
28 disapproval at a general or direct primary election, as required by Article XVI, section 1. By
authorizing the Authority to incur debts and liabilities of the state in excess of \$300,000 without

1 a prior vote and approval of the people, the Act violates Article XVI, section 1, of the California
2 Constitution.

3 27. An actual and justiciable controversy exists between the parties concerning the
4 constitutionality of the Act. Plaintiff is informed and believes, and therefore alleges, that the
5 Defendants dispute the claim that the Act violates Article XVI, section 1, of the California
6 Constitution because Defendants contend the Act does not authorize the creation of a "debt" or
7 "liability" within the meaning of that constitutional limitation.

8 28. A judicial determination of rights and responsibilities arising from this actual
9 controversy is necessary and appropriate at this time.

10 **SECOND CAUSE OF ACTION FOR**
11 **DECLARATORY RELIEF AGAINST ALL DEFENDANTS**
12 **(VIOLATION OF THE "SINGLE OBJECT OR**
13 **WORK" REQUIREMENT (Cal. Const. art. XVI § 1))**

14 29. Plaintiff realleges and incorporates by this reference the allegations of Paragraphs 1
15 through 28 above as though fully set forth.

16 30. The provisions of the Act, Government Code, sections 99000, *et seq.*, authorizing the
17 Authority to issue bonds or other debt instruments to pay the accumulated budget deficit of the state
18 is unconstitutional, illegal, and improper because it violates Article XVI, section 1, of the
19 California Constitution, which provides, in relevant part:

20 The Legislature shall not, in any manner create any debt or debts, liability or
21 liabilities, which shall, singly or in the aggregate with any previous debts or
22 liabilities, exceed the sum of three hundred thousand dollars (\$300,000) . . . unless
23 the same shall be authorized by law for *some single object or work to be distinctly*
24 *specified therein.*

25 Emphasis added.

26 31. The operative effect of the Act is to authorize the Authority to issue bonds and incur
27 debt to obtain funds to pay for an accumulated deficit, which represents the cost of the general and
28 day-to-day operations of the Government of the State of California. Because the borrowing would
not be confined to funding a "single object or work . . . distinctly specified," the Act violates
Article XVI, section 1, of the California Constitution.

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1 32. An actual and justiciable controversy exists between the parties concerning the
2 constitutionality of the Act. Plaintiff is informed and believes, and therefore alleges, that
3 Government Defendants dispute that the Act violates Article XVI, section 1, of the California
4 Constitution because Defendants contend the Act does not authorize the creation of a "debt" or
5 "liability" within the meaning of that constitutional limitation.

6 33. A judicial determination of rights and responsibilities arising from this actual
7 controversy is necessary and appropriate at this time.

8 **THIRD CAUSE OF ACTION AGAINST**
9 **ALL DEFENDANTS (DETERMINATION**
10 **OF INVALIDITY OF DEFICIT BONDS**
(Code of Civil Procedure, sections 860, 863))

11 34. Plaintiff realleges and incorporates by this reference the allegations of Paragraphs 1
12 through 33 above as though fully set forth.

13 35. Based on the foregoing, Plaintiff is entitled to a determination that:

14 (a) This action is properly brought under Code of Civil Procedure, sections 860 and
15 863 and section 99020(a) of the Act, authorizing validation proceedings to be instituted thereunder;

16 (b) All acts, proceedings, and agreements undertaken or made by the Authority and its
17 members in connection with the authorization to issue and the issuance of deficit financing bonds
18 or like debt instruments under the Act are and will be invalid, unlawful, and unconstitutional and
19 therefore null and void;

20 (c) All bonds or other debt instruments, however denominated, including "Fiscal
21 Recovery Bonds" or "Deficit Reduction Bonds," issued or to be issued by the Authority pursuant
22 to the powers conferred by the Act are invalid and void;

23 (d) The approximately \$11 billion in Fiscal Recovery Bonds ("Deficit Bonds" or
24 however else they might be titled) purportedly to be issued under the authority of the Act, possibly
25 in February, 2004, and/or April/May, 2004, as announced by the California State Treasurer in his
26 Official, August 22, 2003, News Release (*see* Exhibit 2), are invalid and void.

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**FOURTH CAUSE OF ACTION AGAINST ALL DEFENDANTS
(INJUNCTIVE RELIEF (Cal. Code of Civil
Procedure, sec. 526; 526a; Civ. Code, sec. 3422))**

36. Plaintiff realleges and incorporates by this reference the allegations of Paragraphs 1 through 35 above as though fully set forth.

37. Plaintiff is informed and believes and thereon alleges that the Government Defendants intend to execute the powers granted them under the Act and issue some \$11 billion in deficit bonds in violation of Article XVI, section 1, of the California Constitution. *See Exhibit 2.*

38. Plaintiff seeks an injunction under Code of Civil Procedure, sections 526, 526a, and/or Civil Code, section 3422, enjoining the Government Defendants from implementing the Act and issuing the deficit bonds pursuant thereto.

39. The harm to plaintiff's and its members' rights and interests is such that they have no adequate remedy at law; absent issuance of permanent injunctive relief, the Government Defendants will take actions under the Act that violate the debt limitation clause, Article XVI, section 1, of the Constitution of California. Pecuniary relief will be inadequate, making equitable relief proper.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief against Defendants as follows:

1. That this Court find that jurisdiction of all interested persons has been obtained and that adequate notice to all named Defendants and all persons interested in the subject matter of this action has been given by Plaintiff and that this Court has jurisdiction over all persons and the subject matter of this action;

2. That this Court find this reverse validation action is properly brought under the Act and Code of Civil Procedure, section 860, *et seq.*, in the Superior Court for the County of Sacramento seeking a judgment invalidating the Act and its provisions authorizing the Authority to incur debts and liabilities through the issuance of bonds; and

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1 3. That a final judgment be entered as follows:

2 **DECLARATORY RELIEF**
3 **(CODE OF CIVIL PROCEDURE § 1060)**

4 a. A declaration that issuance of debt or liability by the Authority pursuant to
5 the Act without prior voter approval violates the debt limitation clause of Article XVI, section 1,
6 of the California Constitution;

7 b. A declaration that Government Code, § 99000, *et seq.*, enacted by AB 7
8 violates Article XVI, section 1, of the Constitution of California and is null and void;

9 c. A declaration that any bonds, notes, obligations or other debt or liability
10 instruments, including any ancillary obligations, issued by the Authority in excess of \$300,000
11 without first obtaining voter approval thereof at a general or direct primary election are
12 unconstitutional, null, and void;

13 d. A declaration that any bonds, notes, obligations or other debt or liability
14 instruments, including any ancillary obligations, issued by the Authority in excess of \$300,000 for
15 purposes other than a "single object or work to be distinctly specified therein" are unconstitutional,
16 null, and void;

17 e. A determination, pursuant to Code of Civil Procedure sections 860 through
18 863, that Government Code, section 99000, *et seq.*, and Revenue and Taxation Code, sections
19 6051.5, 6051.6, 6201.5, 6201.6, 7101.3, and 7203.1, enacted by AB 7, are invalid and without force
20 or effect;

21 **DETERMINATION OF INVALIDITY**
22 **(CODE OF CIVIL PROCEDURE, SECTIONS 860-863)**

23 f. A determination pursuant to Code of Civil Procedure sections 860 through
24 863, and section 99020 of the Act, that any bonds or other debt instruments issued or to be issued
25 by the Authority pursuant to the powers conferred by the Act are invalid and void;

26 g. A determination, pursuant to Code of Civil Procedure, sections 860 through
27 863, that the Fiscal Recovery Bonds (Deficit Bonds) purportedly to be issued under the authority
28 of the Act in February, 2004, and April/May, 2004, are invalid and void;

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INJUNCTIVE RELIEF
(CODE OF CIVIL PROCEDURE,
SECTION 526, 526a; CIVIL CODE, SECTION 3422)

h. That an injunction issue permanently enjoining the Government Defendants from issuing bonds, deficit bonds, or any instruments of debt or liability or borrowing pursuant to any powers granted by Government Code section 99000, *et seq.*, enacted by AB 7;

i. Awarding Plaintiff costs of suit and attorneys' fees; and

j. Granting Plaintiff such other and further relief as the Court deems just and proper.

DATED: September __, 2003.

Respectfully submitted,

JOHN H. FINDLEY
WILLIAM S. MOUNT
HAROLD E. JOHNSON
ARTHUR B. MARK III

By _____
ARTHUR B. MARK III

Attorneys for Plaintiff

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VERIFICATION

I, Thomas Babcock, declare as follows:

I am an authorized representative of Fullerton Association of Concerned Taxpayers, the Plaintiff in this action. I have the authority to act on behalf of Fullerton Association of Concerned Taxpayers. I have read the foregoing complaint and know the contents thereof; that the same is true of my knowledge, except as to matters which are therein stated on information or belief and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was executed this ____ day of September, 2003, at Placentia, California.

THOMAS BABCOCK